

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

This Document Relates To:
All Actions

**DEFENDANTS' MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS ON AUGUSTINE'S
PRIVILEGE LOG**

Pursuant to Federal Rule of Civil Procedure 37(b)(2)(A)(vii) and Local Rules 7.1 and 37.1, Defendants 3M Company and Arizant Healthcare Inc. (collectively “Defendants”) respectfully move the Court to compel Dr. Scott Augustine and the entities he controls (collectively, “Augustine”)¹ to produce documents identified on Augustine’s two most recent privilege logs, because Augustine has failed to establish that the withheld communications were made in connection with an attorney-client or expert consulting relationship, as Augustine was required to do under this Court’s November 23, 2016 Order.

As set forth in the accompanying memorandum of law, Defendants seek the Court’s assistance as follows:

1. Ordering Augustine to produce (1) the 23 Kennedy-Hodges-related documents listed on his privilege log of August 17, 2016, as well as (2) the 84 Kennedy-Hodges-related documents listed on his privilege log of

¹ In this Motion, “Augustine” refers to: Dr. Scott Augustine, Augustine Biomedical and Design, Augustine Temperature Management, Hot Dog International, Hot Dog USA, Orthopedic Infection Advisory, and Stop Surgical Infection. *See* ECF No. 178 at 1 n.1.

December 22, 2016; and

2. Awarding Defendants their costs and reasonable attorneys' fees incurred in connection with this Motion.

Because Dr. Augustine has not satisfied the requirements of this Court's November 23, 2016 Order, or the requirements of Rule 26, Defendants respectfully request that the Court grant this motion and order Dr. Augustine to produce documents identified on Augustine's two most recent privilege logs, or, in the alternative, an order for *in-camera* inspection of the document so the Court may assess whether Augustine has properly withheld documents.

Dated: January 19, 2017

Respectfully submitted,

s/Bridget M. Ahmann

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